

SB X7 1 (Steinberg) – October 30, 2009
Delta & Water Reform Legislation
SUMMARY: California Delta Governance & Planning

SUMMARY: Reforms policy and governance for the Sacramento-San Joaquin Delta (Delta). Specifically, the proposed agreement for Delta governance would:

- 1) Reconstitute and redefine role of the Delta Protection Commission (DPC), narrow membership to focus on local representation, and expand DPC role in economic sustainability and advising the Delta Council.
 - a) Require DPC to create a regional economic sustainability plan, including creation of a Delta Investment Fund in the State Treasury.
 - b) Require DPC to submit recommendations regarding potential expansion of or change to the Delta's primary zone to the Legislature.
 - c) Require the Delta Council to consider DPC recommendations and adopt such recommendations, if in the Council's discretion they are feasible and consistent with the Delta Plan objectives.
- 2) Create a new Sacramento-San Joaquin Delta Conservancy (Conservancy), to support efforts that advance environmental protection and the economic well-being of Delta residents.
 - a) Establish and limit the Conservancy's powers and duties, to focus its efforts on collaborative projects in the Delta and Suisun Marsh.
 - b) Require the Conservancy to develop a strategic plan consistent with the Delta Plan and other applicable regional plans affecting the Delta or Suisun Marsh
 - c) Establish the Sacramento-San Joaquin Delta Conservancy Fund in the State Treasury.
- 3) Repeal the California Bay-Delta Authority Act.
- 4) Establish new legal framework for Delta management, emphasizing the coequal goals of "providing a more reliable water supply for California and protecting, restoring, and enhancing the Delta ecosystem" as foundation for state decisions as to Delta management.
 - a) Set state policy and objectives for management of the Delta.
 - b) Define several important new legal terms related to managing the Delta, including "co-equal goals," adaptive management, ecosystem restoration, new Delta governance entities, and "covered actions" that are subject to appeal to the Delta Council for a determination of consistency with the Delta Plan.
 - c) Preserve existing law – explicitly – relating to several legal issues, including:
 - statutory protection for area-of-origin
 - specified statutes establishing environmental protection regulatory processes
 - water rights, including procedural and substantive protections for water right holders, such as the domestic use preference
 - scope of SWRCB authority and judicial jurisdiction to regulate water rights
 - state liability for flood protection in the Delta or its watershed

- 5) Require the Delta Stewardship Council, Department of Water Resources (DWR) or Department of Fish & Game (DFG) to take certain "early actions," including certain Delta ecosystem restoration projects such as "Two-Gates Fish Protection Demonstration Project."
- 6) Require State Water Resources Control Board (SWRCB) to develop new flow criteria for the Delta ecosystem necessary to protect public trust resources, to inform planning decisions in the Delta Plan and the Bay Delta Conservation Plan.
 - a) Specify informational process for developing new flow criteria, pursuant to SWRCB regulations, that includes opportunity for all interested persons to participate.
 - b) Require order approving moving the point of diversion for the State Water Project (SWP) and the federal Central Valley Project (CVP) to the Sacramento River to include "appropriate" Delta flow criteria.
 - c) Require SWP/CVP water contractors to pay costs of flow criteria analysis.
- 7) Create Delta Stewardship Council (Council) as an independent state agency.
 - a) Establish 7-member Council, with four appointments by the Governor, two by the Legislature, and the chair of the Delta Protection Commission, with staggered terms.
 - b) Specify authority of Council, including appeals of state/local agency determinations of consistency with Delta Plan, with specified exemptions.
- 8) Create Delta Watermaster as enforcement officer for SWRCB in the Delta.
- 9) Create Delta Independent Science Board (Science Board) and Delta Science Program.
- 10) Require Council to develop, adopt, and commence implementation of the "Delta Plan" by January 1, 2012, with a report to the Legislature by March 31, 2012.
 - a) Require Delta Protection Commission (DPC) to develop proposal to protect, enhance, and sustain the unique cultural, historical, recreational, agricultural, and economic values of the Delta as an evolving place.
 - b) Require Delta Plan to further the coequal goals of Delta ecosystem restoration and a reliable water supply.
- 11) Require Delta Plan to promote statewide water conservation, water use efficiency, and sustainable use of water, as well as improvements to water conveyance/storage and operation of both to achieve the coequal goals.
- 12) Require Delta Plan to attempt to reduce risks to people, property, and state interests in the Delta by promoting effective emergency preparedness, appropriate land uses, and strategic levee investments.
- 13) Require Council to consider including the Bay Delta Conservation Plan (BDCP) under certain circumstances, including:
 - a) Condition BDCP incorporation into Delta Plan and state funding for BDCP public benefits on compliance with the Natural Community Conservation Planning (NCCP) Act and California Environmental Quality Act (CEQA).
 - b) Require certain analyses as part of CEQA compliance for BDCP:
 - c) Require DWR to consult with Council and Science Board during development of BDCP.

- d) Require BDCP to include transparent, real-time operational decision making process in which fishery agencies ensure applicable biological performance measures are achieved in a timely manner.

EXISTING LAW establishes more than 200 state and local agencies with responsibilities and authority in the Delta, including SWRCB, DPC, DWR, DFG, and the California Bay-Delta Authority.

COMMENTS: This bill would replace the existing Bay Delta Authority and CalFed Program with a new governance structure, designed to balance the needs of the environment, water users, and Delta communities. It draws heavily on the work of the Public Policy Institute of California, Delta Blue Ribbon Task Force, and numerous legislative hearings. This bill would establish for the Delta the twin goals of ecosystem restoration and water supply reliability, would create a new Delta Stewardship Council to develop and implement a Delta plan, would create a new Delta Conservancy to acquire lands and to facilitate ecosystem restoration, would revise the composition and duties of the Delta Protection Commission.